

# **EXHIBIT 174**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 MICHAEL RAPAPORT and  
4 MICHAEL DAVID PRODUCTIONS,  
5 INC.,

6 Plaintiffs,

7 vs.

Case No.  
1:18-CV-08783

8 BARSTOOL SPORTS, INC.,  
9 ADAM SMITH, KEVIN CLANCY,  
10 ERIC NATHAN and DAVID PORTNOY,

11 Defendants.  
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VIDEOTAPED DEPOSITION OF  
ERIC W. ROSE

Friday, January 10, 2020

8:44 A.M. TO 3:40 P.M.

Los Angeles, California

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MICHAEL RAPAPORT and  
MICHAEL DAVID PRODUCTIONS,  
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BARSTOOL SPORTS, INC.,  
ADAM SMITH, KEVIN CLANCY,  
ERIC NATHAN and DAVID PORTNOY,

Defendants.

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VIDEOTAPED DEPOSITION OF

ERIC W. ROSE,

taken at the offices of Greenberg Glusker Fields  
Claman & Machtinger LLP, 1900 Avenue of the Stars,  
21st Floor, Los Angeles, California, on Friday,  
January 10, 2020 at 8:44 A.M., before Lori Byrd,  
Registered Professional Reporter, Certified Realtime  
Reporter, Certified LiveNote Reporter, Realtime  
Systems Administrator, Kansas Certified Court  
Reporter 1681, California Certified Shorthand  
Reporter 13023, and California Certified Realtime  
Reporter 209.

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20 ALSO PRESENT

21 NO ONE

## 22 LEGAL VIDEOGRAPHER

23 RENEE MAYFIELD  
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25

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None

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None

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None

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ORIGINAL EXHIBITS ATTACHED

TO ORIGINAL TRANSCRIPTS

EXHIBIT COPIES ATTACHED

TO ELECTRONIC TRANSCRIPT IN PDF FORMAT

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PREVIOUSLY MARKED EXHIBITS

REFERRED TO IN THIS TRANSCRIPT

None

1 controversy.

2 Do you recall that?

3 A. I do.

4 Q. Okay.

5 (DEPOSITION EXHIBIT 507 MARKED

6 FOR IDENTIFICATION)

7 MR. MOSS: So we'll represent that

8 Exhibit 507 is page 1 of the Google search results

9 for the term "Michael Rapaport" -- yeah, done with

10 an incognito browser as searched today -- or I'm

11 sorry, yesterday, January 9th.

12 BY MR. MOSS:

13 Q. Do you see the date on the upper left?

14 A. I do, yep.

15 Q. Now, would you agree that the first page

16 of Google search results are the most important?

17 MR. BUSCH: Just note my objection, and

18 note my objection to this document. I've not seen

19 it before, and don't know, other than representation

20 of counsel, what it is.

21 A. Generally speaking, the first page of

22 Google results are important. But I don't know that

23 this is representative of the full page. And also,

24 it doesn't show the data that is out there.

25 And just because it's on the first page

1 doesn't mean that as people dig in to any one of  
2 these links that bring you to other things, that  
3 you're not going to find the damage that was done.

4 So I -- if this is going to be the basis  
5 for an argument that you would make, I'd like to do  
6 my -- I would do my own analysis to show you that my  
7 opinion about the impact of what Barstool did is  
8 significant.

9 So this is ...

10 BY MR. MOSS:

11 Q. If people are scanning the search results  
12 that appear on the first page of Google, they aren't  
13 going to see anything about Michael Rapaport and  
14 Barstool. Correct?

15 A. Well, I don't -- I don't know that to be  
16 true. Because when I did the searches when I was  
17 doing my report in October, they were appearing on  
18 page 1.

19 And -- but more importantly, it doesn't  
20 reflect the entire damage to Michael's reputation by  
21 the known and unknown, the fact that there is  
22 negative Apple reviews, didn't -- so I'm --

23 Q. I'm not talking about the negative Apple  
24 reviews. I'm specifically talking about the comment  
25 that you made this morning, when you said:



1 "When you search for Michael  
2 Rapaport, it's very difficult now  
3 not to find stories that mention  
4 the Barstool controversy."

5 A. That's correct.

6 MR. MOSS: Okay. Let me show you what  
7 we'll mark as Exhibit 508.

8 (DEPOSITION EXHIBIT 508 MARKED  
9 FOR IDENTIFICATION)

10 MR. MOSS: Okay. And this is the same  
11 search, but a printout of the page 2 results.

12 THE WITNESS: Okay.

13 BY MR. MOSS:

14 Q. And there's nothing on page 2 of the  
15 search results that references the Barstool  
16 controversy. Correct?

17 A. From the printout you showed me, that's  
18 correct.

19 MR. MOSS: Okay. 509.

20 (DEPOSITION EXHIBIT 509 MARKED  
21 FOR IDENTIFICATION)

22 MR. MOSS: 509 is the same search for  
23 Michael Rapaport, but a printout of the Google  
24 page 3 results.

25 BY MR. MOSS:

1 Q. There's nothing on page 3 of the search  
2 results that references the Barstool controversy.  
3 Correct?

4 A. That's correct.

5 (DEPOSITION EXHIBIT 510 MARKED  
6 FOR IDENTIFICATION)

7 MR. MOSS: Exhibit 510 is the same Google  
8 search result for Michael Rapaport, but a printout  
9 of the Google page 4 search results.

10 BY MR. MOSS:

11 Q. Do you see that?

12 A. Yes.

13 Q. Okay. And there's nothing on page 4 of  
14 the page 4 search results that references the  
15 Barstool controversy. Correct?

16 A. That's correct.

17 (DEPOSITION EXHIBIT 511 MARKED  
18 FOR IDENTIFICATION)

19 THE WITNESS: I would note here that you  
20 searched in Google and a lot of people also search  
21 in Google News. I don't see that this is a Google  
22 News search result.

23 I would just offer that if this is  
24 going to be, like your testimony, or your position,  
25 that I would do my own report specifically on Google



1 searches.

2 BY MR. MOSS:

3 Q. And how would you do the search  
4 differently than I've done it?

5 A. Well, I would -- first of all, I'd be  
6 looking at Google News, where a lot of people look  
7 to see about him.

8 But, you know, I'd have to do my own  
9 analysis. When I searched, I found him on page 1,  
10 so --

11 Q. Did you -- at the time that you were doing  
12 that search, that was after you had been retained?

13 A. Yes.

14 Q. And that was after you conducted your  
15 research where you looked into all the comments and  
16 stories about the controversy?

17 A. Right. And so what I would say, because I  
18 believe I know where you're going to go, is that  
19 that would influence my browser, my browser history  
20 to pull up stories.

21 What I would say is if we were to do a  
22 true analysis, we would have an independent company  
23 review, like a Five Blocks, which I use for other  
24 clients, go in and do an analysis of Google results.

25 Q. Okay. So you have not run -- you have not



1 done a Google search for Michael Rapaport on a,  
2 quote/unquote, clean browser that had not already  
3 been used to do your research in this case.

4 Correct?

5 A. That's correct.

6 MR. MOSS: What are we on?

7 THE REPORTER: 512.

8 (DEPOSITION EXHIBIT 512 MARKED

9 FOR IDENTIFICATION)

10 MR. MOSS: Okay. Exhibit 512 is the same  
11 Google search result for Michael Rapaport, but a  
12 printout of the Google page 6 results.

13 BY MR. MOSS:

14 Q. Do you see that?

15 A. I do.

16 Q. And there's nothing on page 6 of that  
17 exhibit, those search results that references the  
18 Barstool controversy. Correct?

19 A. That's correct.

20 (DEPOSITION EXHIBIT 513 MARKED

21 FOR IDENTIFICATION)

22 MR. MOSS: Okay. 513 is the search  
23 results for Michael Rapaport, a printout of page 7.

24 BY MR. MOSS:

25 Q. Do you see that?

1 A. I do.

2 Q. Okay. And there's nothing on page 7 of  
3 the search results that references the Barstool  
4 controversy. Correct?

5 A. That's correct.

6 (DEPOSITION EXHIBIT 514 MARKED  
7 FOR IDENTIFICATION)

8 MR. MOSS: Okay. 514 is the Google search  
9 result for Michael Rapaport, page 8.

10 BY MR. MOSS:

11 Q. Do you see that?

12 A. I do.

13 Q. And there's nothing on page 8 that  
14 references the Barstool controversy. Correct?

15 A. That's correct.

16 (DEPOSITION EXHIBIT 515 MARKED  
17 FOR IDENTIFICATION)

18 BY MR. MOSS:

19 Q. Okay. 515 is page 9 of the Google search  
20 results for Michael Rapaport.

21 Do you see that?

22 A. Yep.

23 Q. And there's nothing on page 9 that  
24 references the Barstool controversy. Correct?

25 A. Correct.

1 MR. MOSS: And finally...

2 (DEPOSITION EXHIBIT 516 MARKED

3 FOR IDENTIFICATION)

4 MR. MOSS: 516 is page 10 of the Google

5 search results for Michael Rapaport.

6 BY MR. MOSS:

7 Q. Do you see that?

8 A. I do.

9 Q. And there is nothing on the page 10 search

10 results that references the Barstool controversy.

11 Correct?

12 A. That's correct.

13 Q. So I'll just represent that if you were to  
14 use an incognito browser to search Michael Rapaport  
15 on Google News, you would have to scroll down  
16 through at least 100 stories before something comes  
17 up on the Barstool controversy.

18 If you were to assume that, does that  
19 impact your opinion at all?

20 A. No.

21 Q. Why not?

22 A. Because I think the totality of what  
23 occurred has impacted Mr. Rapaport's reputation and  
24 image that they have put out there among a base of  
25 people, which they kind of share in common, people



1 STATE OF \_\_\_\_\_ )  
2 COUNTY OF \_\_\_\_\_ )

3  
4  
5 DEPONENT'S DECLARATION

6  
7 I certify under penalty of perjury that  
8 the foregoing is true and correct, with addition of  
9 correction page, if any corrections are made.

10  
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12  
13 Executed at [city>>>] \_\_\_\_\_ on  
14 [date>>>] \_\_\_\_\_.

15  
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18 \_\_\_\_\_  
19 ERIC W. ROSE  
20 (Signature of Deponent)  
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## COURT REPORTER CERTIFICATE

I, Lori Byrd, CSR 13023, do hereby declare:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn pursuant to Section 30(f)(1) of the Federal Rules of Civil Procedure and the deposition is a true record of the testimony given by the witness.

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to text under my direction.

That the witness was requested to review the transcript and make any changes to the transcript as a result of that review pursuant to Section 30(e) of the Federal Rules of Civil Procedure.

No changes have been provided by the witness during the period allowed.

The changes made by the witness are appended to the transcript.

x No request was made that the transcript be reviewed pursuant to Section 30(e) of the Federal Rules of Civil Procedure.

I further declare that I have no interest in the event or action.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed by me on Wednesday, January 22, 2020.

Lori Byrd, CA-CSR 13023, CA-CCRR 209

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## To What Text

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